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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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TOMTOM INTERNATIONAL, B.V.,

Plaintiff,

v.

BROADCOM CORPORATION,

Defendant.

Case No. 8:14-cv-00475 PA (DFMx)

**[JOINT PROPOSED]  
PROTECTIVE ORDER  
REGARDING THE  
DISCLOSURE AND USE OF  
DISCOVERY MATERIALS**

**[DISCOVERY DOCUMENT:  
REFERRED TO MAGISTRATE  
JUDGE DOUGLAS F.  
MCCORMICK]**

1      **1. GOOD CAUSE STATEMENT—PURPOSES AND LIMITATIONS**

2      Plaintiff TomTom International B.V. (“TomTom” or “Plaintiff”) and Broadcom  
3      Corporation (“Broadcom” or “Defendant”) (collectively referred to herein as the  
4      “Parties”) anticipate that disclosure and discovery activity in this action are likely to  
5      involve production of confidential, proprietary, or private information for which  
6      special protection from public disclosure and from use for any purpose other than  
7      prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate  
8      to and petition the court to enter the following Protective Order. The parties  
9      acknowledge that this Order does not confer blanket protections on all disclosures or  
10     responses to discovery and that the protection it affords from public disclosure and use  
11     extends only to the limited information or items that are entitled to confidential  
12     treatment under the applicable legal principles. The parties further acknowledge, as  
13     set forth in Section 13.3, below, that this Protective Order does not entitle them to file  
14     confidential information under seal; C.D. Cal. Civil Local Rule 79-5, in addition to the  
15     Court’s Standing Order, sets forth the procedures that must be followed when a party  
16     seeks permission from the Court to file material under seal.

17     Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the Court finds  
18     good cause for the following Protective Order Regarding the Disclosure and Use of  
19     Discovery Materials (“Order” or “Protective Order”) because there are reasonable  
20     grounds for the parties to anticipate that they will produce and disclose information  
21     that is confidential or private and that the disclosure to the public of such information  
22     may harm the parties.

23      **2. DEFINITIONS**

24      2.1. Challenging Party: a Party or Nonparty that challenges the designation  
25     of information or items under this Order.

26      2.2. Confidentiality Designation: a designation that information or tangible  
27     things are:

28      “CONFIDENTIAL”,

1           “HIGHLY CONFIDENTIAL—ATTORNEYS EYES ONLY”,  
 2           “HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS EYES ONLY”,  
 3           “CONFIDENTIAL—SOURCE CODE”, or  
 4           “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE”.

5           2.3. “CONFIDENTIAL” Information or Items: information (regardless of  
 6 how it is generated, stored, or maintained) or tangible things that qualify for  
 7 protection under Federal Rule of Civil Procedure 26(c).

8           2.4. “CONFIDENTIAL—SOURCE CODE”: source code (regardless of  
 9 how it is generated, stored, or maintained) that has previously been shared between  
 10 the parties and that would qualify for protection under Federal Rule of Civil  
 11 Procedure 26(c), including open source code, the disclosure of the fact of the source  
 12 code’s use, and the specific source code used, which could expose the Producing  
 13 Party to a substantial risk of serious harm, including but not limited to loss of trade  
 14 secrets and/or security threats from unknown actors.

15           2.5. Counsel (without qualifier): Outside Counsel of Record and House  
 16 Counsel, as well as the support staff of either.

17           2.6. Designating Party: a Party or Nonparty that designates information or  
 18 items that it produces in disclosures, written discovery, or in responses to discovery  
 19 under a Confidentiality Designation.

20           2.7. Disclosure or Discovery Material: all items or information, regardless  
 21 of the medium or manner in which it is generated, stored, or maintained (including,  
 22 among other things, testimony, transcripts, and tangible things), that are produced or  
 23 generated in disclosures, written discovery, or in responses to discovery in this  
 24 matter.

25           2.8. Expert: a person with specialized knowledge or experience in a matter  
 26 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
 27 an expert witness or as a consultant in this action.

28           2.9. “HIGHLY CONFIDENTIAL—ATTORNEYS EYES ONLY”

1       Information or Items: sensitive confidential information (regardless of how it is  
 2       generated, stored, or maintained) or tangible things that the disclosure of to a  
 3       Receiving Party or a Nonparty would create a substantial risk of serious harm that  
 4       could not be avoided by less restrictive means, but is not as sensitive as information  
 5       designated “**HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS EYES  
 6       ONLY**” so that Designated House Counsel may view it. For example, types of  
 7       information likely to be designated “**HIGHLY CONFIDENTIAL—ATTORNEYS  
 8       EYES ONLY**”, may include, but are not limited to, internal discussions concerning  
 9       the technology at issue on topics such as pricing, technical design, customer support,  
 10       and supply; business plans, strategies, market analyses, and other financial  
 11       information for past periods; and technical and engineering designs for products  
 12       currently on the market.

13       2.10. **“HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS ONLY”**  
 14       Information or Items: extremely sensitive Confidential information (regardless of  
 15       how it is generated, stored, or maintained) or tangible things that the disclosure of to  
 16       a Receiving Party, including the Receiving Party’s House Counsel, or a Nonparty  
 17       would create a substantial risk of serious harm that could not be avoided by less  
 18       restrictive means, specifically: forward-looking business plans, strategies, market  
 19       analyses, pricing information, revenue and other sensitive financial information;  
 20       technical and engineering designs for products that have yet to be sold; and  
 21       information concerning pending mergers, acquisitions, or other commercial  
 22       dealings.

23       2.11. **“HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE”**:  
 24       source code (regardless of how it is generated, stored, or maintained) that has never  
 25       been shared between the parties and that would qualify for protection under Federal  
 26       Rule of Civil Procedure 26(c), including open source code, the disclosure of the fact  
 27       of the source code’s use, and the specific source code used, which could expose the  
 28       Producing Party to a substantial risk of serious harm, including but not limited to

1 loss of trade secrets and/or security threats from unknown actors.

2       2.12. House Counsel: attorneys who are employees of a named party to this  
3 action. House Counsel does not include Outside Counsel of Record or any other  
4 outside counsel.

5       2.13. Nonparty: any natural person, partnership, corporation, association, or  
6 other legal entity not named as a party to this action.

7       2.14. Outside Counsel of Record: attorneys who are not employees of a  
8 party to this action but are retained to represent or advise a party to this action and  
9 have appeared in this action on behalf of that party or are affiliated with a law firm  
10 which has appeared on behalf of that party.

11       2.15. Party: any party to this action, including all of its officers, directors,  
12 employees, consultants, retained experts, and Outside Counsel of Record (and their  
13 support staffs).

14       2.16. Producing Party: a Party or Nonparty that produces Disclosure or  
15 Discovery Material in this action.

16       2.17. Professional Vendors: persons or entities that provide litigation  
17 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
18 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
19 and their employees and subcontractors.

20       2.18. Protected Material: any Disclosure or Discovery Material that is  
21 designated with a Confidentiality Designation.

22       2.19. Receiving Party: a Party that receives Disclosure or Discovery  
23 Material from a Producing Party.

24       3. **SCOPE**

25       The protections conferred by this Stipulation and Order cover not only  
26 Protected Material, but also (1) any information actually copied or extracted from  
27 Protected Material, whether or not such information was independently discoverable  
28 through other means (subject to limitations (a) and (b), below); (2) all copies,

1 excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
 2 conversations, or presentations by Parties or their Counsel that might reveal Protected  
 3 Material. However, the protections conferred by this Stipulation and Order do not  
 4 cover the following information: (a) any information that is in the public domain at the  
 5 time of disclosure to a Receiving Party or becomes part of the public domain after its  
 6 disclosure to a Receiving Party as a result of publication not involving a violation of  
 7 this Order, including becoming part of the public record through trial or otherwise;  
 8 and (b) any information known to the Receiving Party prior to the disclosure or  
 9 obtained by the Receiving Party after the disclosure from a source who obtained the  
 10 information lawfully and under no obligation of confidentiality to the Designating  
 11 Party. Any use of Protected Material at trial shall be governed by a separate  
 12 agreement or order.

13 Material designated under this Order shall be used by any recipients solely for  
 14 the purpose of conducting this litigation and not for any other purpose whatsoever,  
 15 and such information shall not be disclosed to anyone except as provided herein.

16 **4. DURATION**

17 Even after final disposition of this litigation, the confidentiality obligations  
 18 imposed by this Order shall remain in effect until a Designating Party agrees  
 19 otherwise in writing or a court order otherwise directs. Final disposition shall be  
 20 deemed to be the later of (1) dismissal of this action, with or without prejudice; and  
 21 (2) the entry of final judgment herein after the completion and exhaustion of all  
 22 appeals, rehearings, remands, trials, or reviews of this action, including the time limits  
 23 for filing any notices, motions or applications for extension of time pursuant to  
 24 applicable law.

25 **5. DESIGNATING PROTECTED MATERIAL**

26 **5.1. Exercise of Restraint and Care in Designating Material for Protection.**

27 Each Party or Nonparty that designates information or items for protection  
 28 under this Order must take care to limit any such designation to specific material

1 that qualifies under the appropriate standards. The Designating Party must  
2 designate for protection only those parts of material, documents, items, or oral or  
3 written communications that qualify—so that other portions of the material,  
4 documents, items, or communications for which protection is not warranted are not  
5 swept unjustifiably within the ambit of this Order.

6 Mass, indiscriminate, or routinized designations are prohibited. Designations  
7 that are shown to be clearly unjustified or that have been made for an improper  
8 purpose (*e.g.*, to unnecessarily encumber the discovery process or to impose  
9 unnecessary expenses and burdens on other parties) may expose the Designating Party  
10 to sanctions.

11 If it comes to a Designating Party's attention that information or items that it  
12 designated for protection do not qualify for protection, or qualify for a different  
13 Confidentiality Designation, then that Designating Party must promptly notify all  
14 other Parties that it is withdrawing the mistaken designation. If the withdrawn  
15 designation applies to produced documents, the Designating Party will reproduce the  
16 information without a Confidentiality Designation or with a new Confidentiality  
17 Designation using the same control numbers for each document as in the earlier  
18 production.

19 **5.2. Manner and Timing of Designations.**

20 Except as otherwise provided in this Order (see, *e.g.*, second paragraph of  
21 Section 5.2.1 below), or as otherwise stipulated or ordered, Disclosure or Discovery  
22 Material that qualifies for protection under this Order must be clearly so designated  
23 before, or at the time that, the material is disclosed or produced.

24 Designation in conformity with this Order requires:

25 **5.2.1. Documents**

26 For information in documentary form (*e.g.*, paper or electronic documents,  
27 but excluding transcripts of depositions or other pretrial or trial proceedings), the  
28 Producing Party shall affix the legend containing the appropriate Confidentiality

1 Designation to each page in the designated document; for documents produced  
2 electronically, the Producing Party shall include the appropriate Confidentiality  
3 Designation on each page of the document image and in a Confidentiality metadata  
4 field. In the case of Discovery Material that consists of files produced in native  
5 format, the Producing Party shall produce the native document: (1) using a file title  
6 that specifies the control number for the document and the appropriate  
7 confidentiality designation, (2) with an accompanying .tiff image stating “Produced  
8 in Native Format” with the appropriate Confidentiality Designation within the  
9 contents of the .tiff image; and (3) with a CONFIDENTIALITY metadata field  
10 specifying the Confidentiality Designation.

11 A Party or Nonparty that makes original documents or materials available for  
12 inspection need not designate them for protection until after the inspecting Party has  
13 indicated which material it would like copied and produced. During the inspection  
14 and before the designation, all of the material made available for inspection shall be  
15 treated as “**HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS EYES ONLY.**”  
16 After the inspecting Party has identified the documents it wants copied and  
17 produced, the Producing Party must determine which documents, or portions  
18 thereof, qualify for protection under this Order. Then, before producing the  
19 specified documents, the Producing Party must designate the documents in the  
20 manner specified in the immediately preceding paragraph.

21 **5.2.2. Discovery Requests and Responses**

22 For discovery requests, the propounding party shall designate any Protected  
23 Material by affixing a legend containing the highest applicable Confidentiality  
24 Designation to the caption of each set of requests that contain Protected Material  
25 and shall affix a legend containing the appropriate Confidentiality Designation at the  
26 end of each request that contains Protected Material.

27 For discovery responses, the responding party shall designate any Protected  
28 Material by affixing a legend containing the highest applicable Confidentiality

1 Designation to the caption of each set of responses that contain Protected Material  
2 and shall affix a legend containing the appropriate Confidentiality Designation at the  
3 beginning of each response that contains Protected Material.

4                   5.2.3. Things

5 For information produced in some form other than documentary and for any  
6 other tangible thing, the Producing Party shall affix in a prominent place on the  
7 exterior of the container or containers in which the information or item is stored the  
8 appropriate Confidentiality Designation. If only a portion or portions of the  
9 information or item warrant protection, the Producing Party, to the extent  
10 practicable, shall identify the protected portion(s).

11                   5.2.4. Source Code

12                   5.2.4.1. To the extent production of source code becomes  
13 necessary in this case, a Producing Party may designate source code as  
14 “CONFIDENTIAL—SOURCE CODE” if it comprises or includes confidential,  
15 proprietary or trade secret source code that has already been shared with the Receiving  
16 Party. A Producing Party may alternatively designate source code as “HIGHLY  
17 CONFIDENTIAL—RESTRICTED SOURCE CODE” if it comprises or includes  
18 confidential, proprietary or trade secret source code that has not been shared with the  
19 Receiving Party.

20                   5.2.4.2. Any source code produced in discovery shall be made  
21 available for inspection, in a format allowing it to be reasonably reviewed and  
22 searched, during normal business hours or at other mutually agreeable times, at an  
23 office of the Producing Party’s counsel or another mutually agreed upon location.  
24 Source code designated “CONFIDENTIAL—SOURCE CODE” shall be made  
25 available for inspection under the same limitations and constraints that applied to the  
26 parties’ prior sharing or transfer of the particular source code.

27                   5.2.4.3. The parties have agreed on the following protocol for  
28 the inspection of Source Code that is designated “HIGHLY CONFIDENTIAL—

## RESTRICTED SOURCE CODE":

5.2.4.3.1     Broadcom’s “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” shall be made available to TomTom at Broadcom’s corporate headquarters in Irvine, California. TomTom’s “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” shall be made available to Broadcom at TomTom’s corporate headquarters in Amsterdam, Netherlands or at a mutually agreeable location.

5.2.4.3.2 The “HIGHLY CONFIDENTIAL—  
RESTRICTED SOURCE CODE” shall be available for inspection on at least two  
stand-alone computers (“Source Code Computers”) provided by the Producing Party  
and running Mac OS X Snow Leopard, a reasonably current version of the  
Microsoft Windows operating system, or Linux.

5.2.4.3.3 The Producing Party shall install software that is sufficient for viewing and searching the “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” produced. The Receiving Party’s outside counsel and/or experts may request that commercially available software tools for viewing and searching “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” be installed on the Source Code Computer, provided, however, that such other software tools are reasonably necessary for the Receiving Party to perform its review of the code consistent with all of the protections herein. Specific tools that may be used include, but are not limited to: Visual Slick Edit; Source-Navigator; PowerGrep; and ExamDiff Pro (or other similar programs). For Source Code Computers running Mac OS X, the tools shall include an up-to-date version of Xcode. The Receiving Party must provide the Producing Party with the web link, CD or DVD containing such licensed software tool(s) at least ten (10) days in advance of the date upon which the Receiving Party wishes to have the additional software tools available for use on the Source Code Computer. The Receiving Party shall not at any time use any compilers, interpreters, or simulators in connection with the

1 Producing Party's "HIGHLY CONFIDENTIAL—RESTRICTED SOURCE  
2 CODE", without the written consent of the Producing Party.

3 5.2.4.3.4 To verify that its "HIGHLY  
4 CONFIDENTIAL—RESTRICTED SOURCE CODE" has not later been altered,  
5 the Producing Party may benchmark the materials before and after they are  
6 provided, but shall not install any keystroke or other monitoring software on the  
7 Source Code Computer(s).

8 5.2.4.3.5 The Source Code Computer(s) shall be made  
9 available from 9 a.m. to 5 p.m. (local time), Monday through Friday (excluding  
10 holidays), and, if necessary, at other times upon mutual agreement of the Producing  
11 Party and Receiving Party.

12 5.2.4.3.6 The Receiving Party's counsel shall provide  
13 to outside counsel for the Producing Party the names of any individual who will  
14 require access to the secure facility at least three (3) business days before being  
15 granted access to the secure facility for the first time. Individuals who have been  
16 previously identified according to this paragraph may access the secure facility,  
17 consistent with the normal practice at the facility, without further approval, although  
18 the Producing Party shall be informed each time such person accesses the secured  
19 facility.

20 5.2.4.3.7 Proper identification of all authorized persons  
21 shall be provided prior to any access to the secure room or the Source Code  
22 Computer(s). Proper forms of proper identification include, for example, a photo  
23 identification card sanctioned by the government of any State or the District of  
24 Columbia in the United States, by the government of the United States, or by the  
25 nation state of the authorized person's current citizenship. Absent such  
26 identification, access to the secure room or the Source Code Computer(s) will be  
27 denied. All persons entering and leaving the secure room are required to sign a  
28 Source Code Access Log, providing the date and time.

### 5.2.4.3.9 Outside counsel for the Producing Party will

1 keep the originals of the printed code documents, and copies shall be made for  
2 outside counsel for the Receiving Party within 24 hours. The Producing Party shall  
3 Bates number, copy, and label “HIGHLY CONFIDENTIAL—RESTRICTED  
4 SOURCE CODE” on any pages printed by the Receiving Party. The Receiving  
5 Party shall only make additional copies if such additional copies are (1) necessary to  
6 prepare court filings, pleadings, or other papers (including a testifying expert’s  
7 expert report), (2) necessary for deposition, or (3) otherwise necessary for the  
8 preparation of its case.

1 which the code is being relied upon and (2) that if the code to be cited in such filings  
2 exceeds ten (10) lines of code, then the code must be attached in an exhibit rather  
3 than embedded in the body of the filing. The Receiving Party must log the names of  
4 its own outside counsel or other authorized individuals who can review the  
5 “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” filed under seal.  
6 Additionally, any such electronic copies must be labeled “HIGHLY  
7 CONFIDENTIAL—RESTRICTED SOURCE CODE.”

1 representatives during any code review, but only to ensure that no unauthorized  
2 electronic records of the code are being created or transmitted in any way. The  
3 Producing Party shall ensure that the Receiving Party's attorneys and experts have  
4 sufficient privacy to maintain privilege and work product protections.

### 19 || 5.2.5. Deposition Testimony

20 For testimony given in a deposition, the Designating Party shall identify on  
21 the record, before the close of the deposition, whether the testimony contains  
22 Protected Material. Within 21 days from the receipt of the final transcript (as  
23 defined by the Court Reporter), the Designating Party shall identify, through written  
24 notice, either (1) that the entire transcript contains Protected Material and the level  
25 of protection being asserted, or (2) that portions of the transcript contain Protected  
26 Material and the level of protection being asserted for each portion (by page and line  
27 number). Only those portions of the testimony that are appropriately designated for  
28 protection within the 21 day period shall be covered by the provisions of this

1 Protective Order. Until the 21 day period following receipt of the final transcript  
 2 expires, the transcript shall be treated as “HIGHLY CONFIDENTIAL—OUTSIDE  
 3 ATTORNEYS EYES ONLY”, unless otherwise agreed. After the expiration of that  
 4 period, the transcript shall be treated only as actually designated.

5 Parties shall give the other parties notice if they reasonably expect a  
 6 deposition to include Protected Material, so that the other parties can ensure that  
 7 only authorized individuals who have signed the “Acknowledgment and Agreement  
 8 to Be Bound” (Exhibit A) are present at the deposition. The use of a document or  
 9 thing as an exhibit at a deposition shall not in any way affect the document or  
 10 thing’s designation.

11 Transcripts containing Protected Material shall have an obvious legend on the  
 12 title page indicating that the transcript contains Protected Material, and the title page  
 13 shall be followed by a list of all pages (including line numbers as appropriate) that  
 14 have been designated as Protected Material and the level of protection being  
 15 asserted by the Designating Party. The Designating Party shall inform the court  
 16 reporter of these requirements.

17 For the sake of clarity, the provisions of this Protective Order do not apply to  
 18 testimony at pretrial hearings or trial.

19 **5.3. Information Created by the Receiving Party.**

20 If the Producing Party produces information or things originally created,  
 21 authored, generated, or made by the Receiving Party, and subject to an agreement or  
 22 understanding regarding the confidentiality of the produced materials, then the  
 23 Producing Party shall designate such material as “CONFIDENTIAL”.

24 **5.4. Inadvertent Failures to Designate.**

25 If timely corrected, an inadvertent failure to designate qualified information  
 26 or items does not, standing alone, waive the Designating Party’s right to secure  
 27 protection under this Order for such material. Upon timely correction of a  
 28 designation, the Receiving Party must make reasonable efforts to assure that the

1 material is treated in accordance with the provisions of this Order.

2 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

3 **6.1. Timing of Challenges.**

4 Any Party or Nonparty may challenge a designation of confidentiality at any  
 5 time. Unless a prompt challenge to a Designating Party's confidentiality  
 6 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary  
 7 economic burdens, or a significant disruption or delay of the litigation, a Party does  
 8 not waive its right to challenge a confidentiality designation by electing not to  
 9 mount a challenge promptly after the original designation is disclosed.

10 **6.2. Meet and Confer Requirements.**

11 The Challenging Party shall initiate the dispute resolution process by  
 12 providing written notice of each designation it is challenging and describing the  
 13 basis for each challenge. To avoid ambiguity as to whether a challenge has been  
 14 made, the written notice must recite that the challenge to confidentiality is being  
 15 made in accordance with this specific paragraph of the Protective Order. The parties  
 16 shall attempt to resolve each challenge in good faith and must begin the process by  
 17 conferring directly within 10 days of the date of service of notice, subject to the  
 18 requirements of C.D. Cal. Civ. L.R. 37-1. In conferring, the Challenging Party must  
 19 explain the basis for its belief that each challenged confidentiality designation was  
 20 not proper and must give the Designating Party an opportunity to review the  
 21 designated material, to reconsider the circumstances, and, if no change in  
 22 designation is offered, to explain the basis for the chosen designation. A  
 23 Challenging Party may proceed to the next stage of the challenge process only if it  
 24 has engaged in this meet and confer process first or establishes that the Designating  
 25 Party is unwilling to participate in the meet and confer process in a timely manner.

26 **6.3. Judicial Intervention.**

27 If the Parties cannot resolve a challenge without court intervention, the Parties  
 28 shall submit a joint written stipulation under C.D. Cal. Civ. L.R. 37-2. The

1 Designating Party shall be considered the moving party for the purposes of a joint  
 2 stipulation under Local Rule 37-2. In addition, unless the parties agree otherwise, the  
 3 Designating Party shall send the Challenging Party the Designating Party's material  
 4 under Local Rule 37-2.2 within 14 days of either Party declaring an impasse following  
 5 the meet and confer process under Paragraph 6.2 of this Protective Order. Failure by  
 6 the Designating Party to provide its material under Local Rule 37-2.2 within 14 days  
 7 of either Party declaring an impasse shall automatically waive the confidentiality  
 8 designation for each challenged designation. In addition, the Challenging Party may  
 9 file a motion challenging a confidentiality designation at any time if there is good  
 10 cause for doing so, including a challenge to the designation of a deposition transcript  
 11 or any portions thereof, subject to the requirements of Local Rule 37-1 through 37-4.

12       The burden of persuasion in any such challenge proceeding shall be on the  
 13 Designating Party. Frivolous challenges, and those made for an improper purpose  
 14 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
 15 expose the Challenging Party to sanctions. Unless the Designating Party has waived  
 16 the confidentiality designation by failing to file a motion to retain confidentiality as  
 17 described above, all parties shall continue to afford the material in question the level  
 18 of protection to which it is entitled under the Producing Party's designation until the  
 19 court rules on the challenge.

20       **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

21       7.1. Basic Principles.

22       A Receiving Party may use Protected Material that is disclosed or produced  
 23 by another Party or by a Nonparty in connection with this case only for prosecuting,  
 24 defending, or attempting to settle this litigation. Such Protected Material may be  
 25 disclosed only to the categories of persons and under the conditions described in this  
 26 Order. When the litigation has been terminated by final disposition, a Receiving  
 27 Party must comply with the provisions of Section 14 below (FINAL  
 28 DISPOSITION).

1       Protected Material must be stored and maintained by a Receiving Party at a  
2 location and in a secure manner that ensures that access is limited to the persons  
3 authorized under this Order. The Receiving Party shall maintain such information  
4 in a secure and safe area and shall exercise the same standard of due and proper care  
5 with respect to the storage, custody, use and/or dissemination of such information as  
6 is exercised by the recipient with respect to its own proprietary information.  
7 Confidential materials shall not be copied, reproduced, summarized or abstracted,  
8 except to the extent that such copying, reproduction, summarization or abstraction is  
9 reasonably necessary for the conduct of this lawsuit. All such copies, reproductions,  
10 summaries and abstractions shall be subject to the terms of this Protective Order,  
11 and except with respect to attorney notes containing the attorney's conclusions,  
12 mental impressions or other work product, labeled in the same manner as the  
13 designated material on which they are based. Protected Material designated  
14 "HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE" must be stored  
15 and maintained onsite at the offices of Outside Counsel on one non-networked  
16 computer accessible only to authorized personnel using reasonably secure login  
17 credentials.

18       7.2. Disclosure of "CONFIDENTIAL" Information or Things.

19       A Receiving Party may disclose any information or things designated  
20 "CONFIDENTIAL" only to:

21           7.2.1. the Receiving Party's Outside Counsel of Record in this action, as  
22 well as employees of said Outside Counsel of Record to whom it is reasonably  
23 necessary to disclose the information for this litigation.

24           7.2.2. the officers, directors, and employees (including House Counsel)  
25 of the Receiving Party to whom disclosure is reasonably necessary for this litigation  
26 and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit  
27 A).

28           7.2.3. Experts (as defined in this Order) of the Receiving Party to whom

1 disclosure is reasonably necessary for this litigation and who have signed the  
2 “Acknowledgment and Agreement to Be Bound” (Exhibit A).

3 7.2.4. the court and its personnel.

4 7.2.5. court reporters and their staff, professional jury or trial consultants,  
5 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary  
6 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
7 Bound” (Exhibit A).

8 7.2.6. during their depositions, witnesses in the action to whom  
9 disclosure is reasonably necessary and who have signed the “Acknowledgment and  
10 Agreement to Be Bound” (Exhibit A).

11 7.2.7. the author or recipient of a document containing the information or  
12 a custodian or other person who otherwise possessed or knew the information.

13 7.2.8. any mediator who is assigned to hear this matter, and his or her  
14 staff, subject to their agreement to maintain confidentiality to the same degree as  
15 required by this Protective Order.

16 7.2.9. any other person with the prior written consent of the Designating  
17 Party or by Order of this Court.

18 7.3. Disclosure of “HIGHLY CONFIDENTIAL—ATTORNEYS EYES  
19 ONLY” Information or Things.

20 A Receiving Party may disclose any information or things designated  
21 “HIGHLY CONFIDENTIAL—ATTORNEYS EYES ONLY” only to:

22 7.3.1. the Receiving Party’s Outside Counsel of Record in this action, as  
23 well as employees of said Outside Counsel of Record to whom it is reasonably  
24 necessary to disclose the information for this litigation.

25 7.3.2. James Joy of TomTom and Christopher Parry of Broadcom  
26 (“Designated House Counsel”), who will each have signed the “Acknowledgment and  
27 Agreement to Be Bound” (Exhibit A). The Parties can replace Designated House  
28 Counsel according to the procedures in Paragraph 7.7.1.

1                   7.3.3. Experts (as defined in this Order) of the Receiving Party to whom  
2 disclosure is reasonably necessary for this litigation; who have signed the  
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and as to whom the  
4 procedures in Paragraph 7.7.1 have been followed.

5                   7.3.4. the court and its personnel.

6                   7.3.5. court reporters and their staff, professional jury or trial consultants,  
7 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary  
8 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
9 Bound” (Exhibit A).

10                  7.3.6. the author or recipient of a document containing the information or  
11 a custodian or other person who otherwise possessed or knew the information.

12                  7.3.7. any mediator who is assigned to hear this matter, and his or her  
13 staff, subject to their agreement to maintain confidentiality to the same degree as  
14 required by this Protective Order.

15                  7.3.8. any other person with the prior written consent of the Designating  
16 Party or by Order of this Court.

17                  7.4. Disclosure of “HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS  
18 EYES ONLY” Information or Things.

19                  A Receiving Party may disclose any information or things designated  
20 “HIGHLY CONFIDENTIAL— OUTSIDE ATTORNEYS EYES ONLY” only to:

21                  7.4.1. the Receiving Party’s Outside Counsel of Record in this action, as  
22 well as employees of said Outside Counsel of Record to whom it is reasonably  
23 necessary to disclose the information for this litigation.

24                  7.4.2. Experts (as defined in this Order) of the Receiving Party to whom  
25 disclosure is reasonably necessary for this litigation; who have signed the  
26 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and as to whom the  
27 procedures in Paragraph 7.7.2 have been followed.

28                  7.4.3. the court and its personnel.

1                   7.4.4. court reporters and their staff, professional jury or trial consultants,  
 2 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary  
 3 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
 4 Bound” (Exhibit A).

5                   7.4.5. the author or recipient of a document containing the information or  
 6 a custodian or other person who otherwise possessed or knew the information.

7                   7.4.6. any mediator who is assigned to hear this matter, and his or her  
 8 staff, subject to their agreement to maintain confidentiality to the same degree as  
 9 required by this Protective Order.

10                  7.4.7. any other person with the prior written consent of the Designating  
 11 Party or by Order of this Court.

12                  7.5. Disclosure of “CONFIDENTIAL—SOURCE CODE” Information or  
 13 Things.

14                  Unless otherwise ordered by the court or permitted in writing by the  
 15 Designating Party, a Receiving Party may disclose any information or things  
 16 designated “CONFIDENTIAL—SOURCE CODE” only to:

17                  7.5.1. the Receiving Party’s Outside Counsel of Record in this action, as  
 18 well as employees of said Outside Counsel of Record to whom it is reasonably  
 19 necessary to disclose the information for this litigation.

20                  7.5.2. the officers, directors, and employees (including House Counsel)  
 21 of the Receiving Party to whom disclosure is reasonably necessary for this litigation  
 22 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit  
 23 A).

24                  7.5.3. Experts (as defined in this Order) of the Receiving Party to whom  
 25 disclosure is reasonably necessary for this litigation and who have signed the  
 26 “Acknowledgment and Agreement to Be Bound” (Exhibit A).

27                  7.5.4. the court and its personnel.

28                  7.5.5. court reporters and their staff, professional jury or trial consultants,

1 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary  
2 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
3 Bound” (Exhibit A).

4           7.5.6. the author or recipient of a document containing the information or  
5 a custodian or other person who otherwise possessed or knew the information.

6           7.5.7. any mediator who is assigned to hear this matter, and his or her  
7 staff, subject to their agreement to maintain confidentiality to the same degree as  
8 required by this Protective Order.

9           7.5.8. any other person with the prior written consent of the Designating  
10 Party or by Order of this Court.

11           7.6. **Disclosure of “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE**  
12 **CODE” Information or Things.**

13           Unless otherwise ordered by the court or permitted in writing by the  
14 Designating Party, a Receiving Party may disclose any information or things  
15 designated “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” only  
16 to:

17           7.6.1. the Receiving Party’s Outside Counsel of Record in this action, as  
18 well as employees of said Outside Counsel of Record to whom it is reasonably  
19 necessary to disclose the information for this litigation.

20           7.6.2. Experts (as defined in this Order) of the Receiving Party to whom  
21 disclosure is reasonably necessary for this litigation; who have signed the  
22 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and as to whom the  
23 procedures in paragraph 7.7.2 have been followed.

24           7.6.3. the court and its personnel.

25           7.6.4. court reporters and their staff, professional jury or trial consultants,  
26 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary  
27 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
28 Bound” (Exhibit A).

1                   7.6.5. the author or recipient of a document containing the information or  
2 a custodian or other person who otherwise possessed or knew the information.

3                   7.6.6. any mediators who is assigned to hear this matter, and his or her  
4 staff, subject to their agreement to maintain confidentiality to the same degree as  
5 required by this Protective Order.

6                   7.6.7. any other person with the prior written consent of the Designating  
7 Party or by Order of this Court.

8                   7.7. Procedures for Approving or Objecting to Disclosure of Protected  
9 Material to Replacement House Counsel or Experts

10                  7.7.1. Disclosing Replacement House Counsel.

11                  Unless otherwise ordered by the Court or agreed to in writing by the  
12 Designating Party, a Party that seeks to substitute the House Counsel identified in  
13 Paragraph 7.3.2 first must make a written request to the Designating Party that (1)  
14 sets forth the full name of the Replacement House Counsel and the city and state of  
15 his or her residence; and (2) describes the Replacement House Counsel's current and  
16 reasonably foreseeable future primary job duties and responsibilities in sufficient  
17 detail for the Designating Party to determine if Replacement House Counsel is  
18 involved, or may become involved, in any competitive decision-making. House  
19 Counsel who receive "HIGHLY CONFIDENTIAL—ATTORNEYS EYES ONLY,"  
20 information under this Order must timely disclose any relevant changes in job duties  
21 or responsibilities that occur before final disposition of this litigation to allow the  
22 Designating Party to evaluate any later-arising competitive decision-making  
23 responsibilities and provide them an opportunity to object under paragraph 7.7.3 and  
24 7.7.4. For the purposes of Section 7.7, Replacement House Counsel shall include  
25 the attorneys identified in paragraph 7.3.2 (James Joy and Christopher Parry) if  
26 those attorneys' job responsibilities materially change during the duration of this  
27 litigation.

1                   7.7.2. Disclosing Experts.

2                   Unless otherwise ordered by the Court or agreed to in writing by the  
 3 Designating Party, a Party that seeks to disclose to an Expert (as defined by this  
 4 order) any information or thing that has been designated by another party “HIGHLY  
 5 CONFIDENTIAL—ATTORNEYS EYES ONLY,” “HIGHLY CONFIDENTIAL—  
 6 OUTSIDE ATTORNEYS EYES ONLY,” or “HIGHLY CONFIDENTIAL—  
 7 RESTRICTED SOURCE CODE” under paragraphs 7.3, 7.4, or 7.6, first must make  
 8 a written request to the Designating Party that (1) sets forth the full name of the  
 9 Expert and the city and state of his or her residence; (2) attaches a copy of the  
 10 Expert’s current resume or curriculum vitae; (3) identifies the Expert’s current  
 11 employer(s); (4) identifies each person or entity from whom the Expert has received  
 12 compensation or funding for work in his or her areas of expertise or to whom the  
 13 expert has provided professional services, including in connection with a litigation,  
 14 at any time during the preceding four years;<sup>1</sup> and, (5) identifies, by name and  
 15 number of the case, filing date, and location of court, any litigation in connection  
 16 with which the Expert has offered expert testimony, including through a declaration,  
 17 report, or testimony at a deposition, or trial, during the preceding four years. An  
 18 Expert who receives “HIGHLY CONFIDENTIAL—ATTORNEYS EYES ONLY,”  
 19 “HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS EYES ONLY,” or  
 20 “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” information  
 21 under this Order must timely disclose any relevant changes in job duties or  
 22 responsibilities that occur before final disposition of this litigation to allow the  
 23 Designating Party to evaluate any later-arising competitive decision-making  
 24 responsibilities and provide them an opportunity to object under paragraph 7.7.3 and  
 25 7.7.4.

26  
 27                   

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<sup>1</sup> To the extent a particular expert’s work or professional services is subject to a  
 28 confidentiality agreement with another person or entity, the Expert shall disclose  
 such work pursuant to the terms of this Protective Order.

1                   7.7.3. Objections to Replacement House Counsel and Experts.

2                   A Party that makes a request and provides the information specified in the  
 3 preceding respective paragraphs may disclose Protected Material to the identified  
 4 House Counsel or Expert after 5 business days, unless, within 5 business days of  
 5 delivering the request,<sup>2</sup> the Party receives a written objection from the Designating  
 6 Party. Any such objection must set forth in detail the basis for each challenge. To  
 7 avoid ambiguity as to whether a challenge has been made, the written notice must  
 8 recite that the challenge to the Replacement House Counsel or Expert is being made  
 9 in accordance with this specific paragraph of the Protective Order. In the absence of  
 10 an objection, the House Counsel or Expert shall be deemed approved under the  
 11 Protective Order. If an objection is made, there shall be no disclosure of Protected  
 12 Materials until the objection is resolved or pursuant to court order.

13                   During the pendency of this matter, and after an Expert has been approved  
 14 under the Protective Order, should the Expert become employed or engaged by a  
 15 competitor to the parties to this action, the Expert will promptly advise outside  
 16 counsel of record for the party that has retained the Expert, and he or she and will  
 17 cease reviewing any Protected Material until all parties in the action have been  
 18 advised and either all parties consent to the expert continuing to have access to  
 19 Protected Materials in this matter or as otherwise ordered by the Court. If after the  
 20 disclosure there is an objection to the Expert, the procedures set forth in this  
 21 paragraph and paragraphs 7.7.4 and 7.7.5 apply.

22                   7.7.4. Meet and Confer Requirements for Objections to Replacement  
 23 House Counsel and Experts.

24                   A Party that receives a timely written objection to Replacement House  
 25 Counsel or an Expert must meet and confer with the Designating Party to try to  
 26 resolve the matter by agreement within ten (10) days of the date of service of notice,

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28                   <sup>2</sup> Requests received after 5:00 p.m. Pacific Time on a business day will be deemed  
 delivered on the following business day.

1 subject to the requirements of Civil Local Rule 37-1. In conferring, the Designating  
2 Party must explain the basis for its belief that the House Counsel or Expert should  
3 not receive Protected Material and provide the Party seeking disclosure of Protected  
4 Material to House Counsel or an Expert an opportunity to reconsider the  
5 circumstances. The Party seeking disclosure of Protected Material to House  
6 Counsel or an Expert must describe in detail the reasons why the disclosure to the  
7 House Counsel or an Expert is reasonably necessary, assess the risk of harm that the  
8 disclosure would entail, and suggest any additional means that could be used to  
9 reduce that risk.

10                   7.7.5. Judicial Intervention for Objections to Replacement House  
11 Counsel and Experts.

12 A Designating Party may proceed to the next stage of the challenge process  
13 only if it has engaged in this meet and confer process first or establishes that the  
14 Party seeking disclosure of Protected Material to Replacement House Counsel or an  
15 Expert is unwilling to participate in the meet and confer process in a timely manner.  
16 If no agreement is reached, the Parties shall submit a joint written stipulation under  
17 Civil Local Rule 37-2. The Designating Party shall be considered the moving party  
18 for the purposes of a joint stipulation under Local Rule 37-2. Unless the parties  
19 agree otherwise, the Designating Party shall send the Challenging Party the  
20 Designating Party's material under Local Rule 37-2.2 within 7 days of either party  
21 declaring an impasse following the meet and confer process under Paragraph 7.7.3  
22 of this Protective Order. Failure by the Designating Party to provide its material  
23 under Local Rule 37-2.2 within 7 days of either party declaring an impasse shall  
24 automatically waive the objection to Replacement House Counsel or the Expert.

25 In any such proceeding, the Party opposing disclosure to Replacement House  
26 Counsel or an Expert shall bear the burden of proving that the risk of harm the  
27 disclosure would entail (under the safeguards proposed) outweighs the Receiving  
28 Party's need to disclose the Protected Material to Replacement House Counsel or its

1 Expert.

2                   7.7.6. Later Objections to House Counsel or Experts.

3                   An initial failure to object to a Person under this Paragraph 7.7 shall not  
 4 preclude the non-objecting Party from later objecting to continued access to  
 5 Protected Material by that Person based on new facts or circumstances for good  
 6 cause shown. In this event, a Party must make a written objection to the other Party  
 7 concerning the continued access of Protected Material by that Person, and the  
 8 Parties must meet and confer in good faith concerning such objection. To the extent  
 9 that the objection is unable to be resolved, the later-objecting Party must present its  
 10 objection promptly to the Court for resolution, subject to the Court's relevant local  
 11 rules and standing orders. Notwithstanding such objection, the designated Person  
 12 may continue to have access to Protected Material until judicial resolution of the  
 13 objection.

14                   8. **PROSECUTION BAR**

15                   Absent written consent from the Producing Party, any individual who receives  
 16 access to “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY,”  
 17 “HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY or  
 18 “HIGHLY CONFIDENTIAL—RESTRICTED SOURCE CODE” information shall  
 19 not be involved in the prosecution of patents or patent applications relating to GPS  
 20 or navigation technology before any foreign or domestic agency, including the  
 21 United States Patent and Trademark Office (“the Patent Office”). For purposes of  
 22 this paragraph, “prosecution” includes directly or indirectly drafting, amending,  
 23 advising, or otherwise affecting the scope or maintenance of patent claims.  
 24 Prosecution includes, for example, original prosecution, reissue and reexamination  
 25 proceedings. To avoid any doubt, “prosecution” as used in this paragraph does not  
 26 include representing a party challenging a patent before a domestic or foreign  
 27 agency (including, but not limited to, a reissue protest, *ex parte* reexamination or  
 28 *inter partes* reexamination). This Prosecution Bar shall begin when access to

1       “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY,” “HIGHLY  
 2       CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY or “HIGHLY  
 3       CONFIDENTIAL—RESTRICTED SOURCE CODE” information is first received  
 4       by the affected individual and shall end two (2) years after final disposition of this  
 5       action as defined in Paragraph 4.

6       **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
 7       PRODUCED IN OTHER LITIGATION**

8       If a Party is served with a subpoena or a court order issued in other litigation  
 9       that compels disclosure of any Protected Material designated by another Party, the  
 10      Party subject to the subpoena or court order must:

- 11       (a) promptly notify in writing the Designating Party within ten (10) business days  
 12           of receipt. Such notification shall include a copy of the subpoena or court  
 13           order, and
- 14       (b) promptly notify in writing the party who caused the subpoena or order to  
 15           issue in the other litigation that some or all of the material covered by the  
 16           subpoena or order is subject to this Protective Order. Such notification shall  
 17           include a copy of this Protective Order.

18      The burden of opposing the enforcement of the subpoena or order shall fall upon the  
 19      party who produced or designated the Protected Material. If the Designating Party  
 20      timely seeks a protective order, the Party served with the subpoena or court order  
 21      shall not, unless compelled by law, produce any Protected Material before a  
 22      determination by the court from which the subpoena or order issued, unless the  
 23      Party has obtained the Designating Party’s permission. Nothing in this Order shall  
 24      be construed as authorizing a party to disobey a lawful subpoena issued in another  
 25      action.

26       **10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE  
 27       PRODUCED IN THIS LITIGATION**

28       10.1. Nonparty Protected Material.

29       The terms of this Order are applicable to information produced by a Nonparty

1 in this action and designated with a Confidentiality Designation. Such information  
 2 produced by Nonparties in connection with this litigation is protected by the  
 3 remedies and relief provided by this Order. Nothing in these provisions should be  
 4 construed as prohibiting a Nonparty from seeking additional protections.

5 **10.2. Discovery of Nonparty Material in a Party's Possession.**

6 In the event that a Party is required, by a valid discovery request, to produce a  
 7 Nonparty's confidential information in its possession, and the Party is subject to an  
 8 agreement with the Nonparty not to produce the Nonparty's confidential  
 9 information, then the Party shall:

10 10.2.1. promptly notify in writing the Requesting Party and the  
 11 Nonparty that some or all of the information requested is subject to a confidentiality  
 12 agreement with a Nonparty;

13 10.2.2. promptly provide the Nonparty with a copy of the  
 14 Protective Order in this litigation, the relevant discovery request(s), and a  
 15 reasonably specific description of the information requested; and

16 10.2.3. make the information requested available for inspection by  
 17 the Nonparty.

18 **10.3. Nonparty Procedure for Objections.**

19 If the Nonparty fails to object or seek a protective order from this court within  
 20 14 days of receiving the notice and accompanying information, the Receiving Party  
 21 may produce the Nonparty's confidential information responsive to the discovery  
 22 request. If the Nonparty timely seeks a protective order, the Receiving Party shall  
 23 not produce any information in its possession or control that is subject to the  
 24 confidentiality agreement with the Nonparty before a determination by the court.  
 25 Absent a court order to the contrary, the Nonparty shall bear the burden and expense  
 26 of seeking protection in this court of its Protected Material.

27 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

28 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed

1 Protected Material to any person or in any circumstance not authorized under this  
2 Protective Order, the Receiving Party must immediately (a) notify in writing the  
3 Designating Party of the unauthorized disclosures; (b) use its best efforts to retrieve  
4 all unauthorized copies of the Protected Material; (c) inform the person or persons to  
5 whom unauthorized disclosures were made of all the terms of this Order; and (d)  
6 request such person or persons to execute the “Acknowledgment and Agreement to  
7 Be Bound” that is attached hereto as Exhibit A.

8 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
9 **PROTECTED MATERIAL**

10 If information subject to a claim of attorney-client privilege, attorney work product,  
11 privacy or data protection, including under applicable foreign law, or any other  
12 ground on which production of such information may not be made to any party is  
13 inadvertently produced to such party(ies), such production shall in no way prejudice  
14 or otherwise constitute a waiver of, or estoppel as to, any claim of privilege, work  
15 product, privacy or data protection, including under applicable foreign law, or other  
16 ground for withholding production to which the Producing Party would otherwise be  
17 entitled. If a claim of inadvertent production is made, pursuant to this paragraph,  
18 with respect to information then in the custody of another party, the Receiving Party  
19 shall, within five (5) business days of the claim being made, (i) return to the  
20 claiming party or person that material as to which the claim of inadvertent  
21 production has been made and (ii) certify that all copies of the document have been  
22 destroyed, including all copies and any portions of notes, papers, summaries, or  
23 other instruments that comprise, embody, summarize, discuss or quote from  
24 documents or things for which claim of inadvertent production is asserted.  
25 Notwithstanding the foregoing, the Receiving Party does not need to delete the  
26 original production media (e.g., disc, hard drive, etc.) containing the disputed  
27 materials, unless and until the Producing Party has replaced the production media  
28 with a version that contains all non-privileged documents produced. Moreover,

1 counsel will not be required to search or delete any automatically stored copies of  
2 email or other documents that are backed up or copied through automatic processes,  
3 such as for disaster-recovery purposes.

4 The Receiving Party shall not use such information for any purpose until  
5 further order of the Court. The Party returning such material may then move the  
6 Court for an order compelling production of the material, but said motion shall not  
7 assert as a ground for entering such an order the fact or circumstance of the  
8 inadvertent production. The return of any such material shall not be delayed or  
9 refused for any reason, including but not limited to a party's objection to a claim of  
10 inadvertent production, or by the filing of a motion to compel, nor may a party  
11 assert the fact of the inadvertent production as a ground for retaining possession of  
12 the material until resolution of the parties' dispute. Upon the filing of an  
13 appropriate motion with the Court for an *in camera* determination of a privilege  
14 claim (following a meet-and-confer consistent with the Local Rules of the Court),  
15 the Producing Party shall submit to the Court, on an *in camera* basis, the documents  
16 for which *in camera* review is being sought within two business days of being  
17 served with such a motion.

18 **13. MISCELLANEOUS**

19 **13.1. Right to Further Relief.**

20 Nothing in this Order abridges the right of any person to seek its modification  
21 by the court in the future. The Parties agree to meet and confer prior to seeking to  
22 modify this Protective Order for any reason. The restrictions imposed by this Order  
23 may be modified or terminated only by written stipulation of the Parties or by order  
24 of this Court. Any modifications stipulated to by the Parties shall not have the force  
25 of a court order until approved by the Court. In the event that a new party is added,  
26 substituted, or brought in, this Order will be binding on and inure to the benefit of  
27 the new party, subject to the right of the new party to seek relief from or  
28 modification of this Order.

1                   13.2. Right to Assert Other Objections.

2                   By stipulating to the entry of this Protective Order no Party waives any right it  
3                   otherwise would have to object to disclosing or producing any information or item on  
4                   any ground not addressed in this Protective Order. Similarly, no Party waives any  
5                   right to object on any ground to use in evidence of any of the material covered by this  
6                   Protective Order.

7                   13.3. Filing Protected Material.

8                   Without written permission from the Designating Party or a court order  
9                   secured after appropriate notice to all interested persons, a Party may not file in the  
10                  public record in this action any Protected Material. A Party that seeks to file under  
11                  seal any Protected Material must comply with C.D. Cal. Civil Local Rule 79-5 and  
12                  this Court's Standing Order. Protected Material may only be filed under seal  
13                  pursuant to a court order authorizing the sealing of the specific Protected Material at  
14                  issue. If a Receiving Party's request to file Protected Material under seal pursuant to  
15                  Civil Local Rule 79-5(d) is denied by the court, then the Receiving Party may file  
16                  the information in the public record pursuant to Civil Local Rule 79-5(e) unless  
17                  otherwise instructed by the court.

18                  14. **FINAL DISPOSITION**

19                  14.1. Jurisdiction.

20                  This Court retains and shall have continuing jurisdiction over the Parties and  
21                  recipients of the Protected Material for enforcement of the provisions of this  
22                  Protective Order following final disposition (as defined in Paragraph 4 above),  
23                  termination, or settlement of this litigation.

24                  14.2. Return or Destruction of Material.

25                  Within 60 days after the final disposition of this action each Receiving Party  
26                  must return all Protected Material to the Producing Party or destroy such material.  
27                  As used in this subdivision, "all Protected Material" includes all copies, abstracts,  
28                  compilations, summaries, and any other format reproducing or capturing any of the

1 Protected Material. The Designating Party must notify the Receiving Party in  
2 writing within ten (10) days of the final disposition of this action if it elects to have  
3 Protected Material it produced returned or destroyed; if the Producing Party does not  
4 make an election within that period of time, the Receiving Party may destroy the  
5 material without further notice. The Parties shall destroy all Protected Material that  
6 the Designating Party does not elect to have returned. Upon the Producing and/or  
7 Designating Party's request, the Receiving Party shall verify the return or  
8 destruction of all Protected Material by written certification furnished to the  
9 Designating Party. Such written certification, if requested, shall be provided within  
10 thirty (30) days of the request and shall (1) identify (by category, where appropriate)  
11 all the Protected Material that was returned or destroyed and (2) affirm that the  
12 Receiving Party has not retained any copies, abstracts, compilations, summaries or  
13 any other format reproducing or capturing any of the Protected Material, other than  
14 those permitted to be kept by counsel. Notwithstanding this provision, Counsel are  
15 entitled to retain archival copies of all pleadings; motion papers; trial, deposition,  
16 and hearing transcripts; legal memoranda; correspondence; trial, deposition, and  
17 hearing exhibits; expert reports; attorney work product; and consultant and expert  
18 work product, even if such materials contain Protected Material. The limitation to  
19 archival copies shall not mean that outside counsel must review its case files,  
20 emails, or correspondence to eliminate duplication. In addition, this provision does  
21 not require the Receiving Party to search through or delete automatically generated  
22 computer backup files that are created for disaster recovery purposes (e.g., computer  
23 backup tapes), if such files are not readily accessible. Any such archival copies that  
24 contain or constitute Protected Material remain subject to this Protective Order as  
25 set forth in Section 4 (DURATION).

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1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**  
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6 Dated: October 10, 2014  
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DOUGLAS F. McCORMICK  
United States Magistrate Judge

10 Dated: October 9, 2014  
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13

FENWICK & WEST LLP

14 By: /s/ Darryl M. Woo  
15 Darryl M. Woo  
16 Jedediah Wakefield  
17 Todd R. Gregorian  
18 Sebastian Kaplan  
19 Attorneys for Plaintiff  
20 TOMTOM INTERNATIONAL, B.V.  
21  
22  
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20 Dated: October 9, 2014  
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KEKER & VAN NEST LLP

20 By: /s/ Robert A. Van Nest  
21 Robert A. Van Nest  
22 Attorneys for Defendant  
23 BROADCOM CORPORATION  
24  
25  
26  
27  
28

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, \_\_\_\_\_ [print or type full name], of  
4 \_\_\_\_\_ [print or type full address], declare under penalty of perjury that  
5 I have read in its entirety and understand the Protective Order that was issued by the  
6 United States District Court for the Central District of California on \_\_\_\_\_ [date]  
7 in the case of 8:14-cv-00475-PA-DFM. I agree to comply with and to be bound by all  
8 the terms of this Protective Order and I understand and acknowledge that failure to so  
9 comply could expose me to sanctions and punishment in the nature of contempt. I  
10 solemnly promise that I will not disclose in any manner any information or item that is  
11 subject to this Protective Order to any person or entity except in strict compliance with  
12 the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court  
14 for the Central District of California for the purpose of enforcing the terms of this  
15 Protective Order, even if such enforcement proceedings occur after termination of this  
16 action.

17 I hereby appoint \_\_\_\_\_ [print or type full name] of  
18 \_\_\_\_\_ [print or type full address and  
19 telephone number] as my California agent for service of process in connection with  
20 this action or any proceedings related to enforcement of this Protective Order.

21 Date: \_\_\_\_\_

22 City and State where sworn and signed: \_\_\_\_\_

23 Printed name: \_\_\_\_\_

24 Signature: \_\_\_\_\_